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April 26, 2010

The Honorable Richard D. Bennett
U.S. District Court of Maryland
101 W. Lombard Street 6500
Baltimore, MD 21201

Re.: ***Johnson v. Midland Funding***
Case No. RDB-09-2391
April 28, 2010 Motions Hearing & Notice of Supplemental Authority

Dear Judge Bennett:

Pursuant to your chambers' inquiry of last week, Plaintiffs' counsel are prepared to attend the one-hour motions hearing set in the above matter for Wednesday, April 28, 2010 at 11:00am and argue the pending motion(s).

In addition, as the Court may be aware, the Supreme Court has recently made rulings important to the present motion(s). First, in the matter of *Jerman v. Carlisle, McNellie, Rini, Kramer & Ulrich LPA*, --- S.Ct. ----, 2010 WL 1558977 (2010), the held that the bona fide error defense under the Fair Debt Collection Practices Act (FDCPA) does not extend to incorrect interpretations of the legal requirements of the Act.

Also, in *Shady Grove Orthopedic Associates, P.A. v. Allstate Ins. Co.*, --- S.Ct. ----, 2010 WL 1222272 (2010), the Court held that state laws which conflict with Rule 23 are not an impediment to the relief available under Rule 23.

Finally, the Eleventh Circuit Court of Appeals last month, in the case of *LeBlanc v. Unifund CCR Partners*, --- F.3d ----, 2010 WL 1200691 (C.A.11 (Fla.), 2010), held, in a nearly identical case to this dispute, that failing to register as an "out-of-state consumer collection agency" may support a cause of action under the FDCPA for "threatening to take action that cannot legally be taken." The case further held that "in light of the state court lawsuit Unifund brought to recover on the debt, we summarily reject Unifund's contention that it has not engaged in 'collection activity.'" *Id.* at *5.

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Since *Jerman*, *Shady Grove*, and *LeBlanc* would appear to directly apply to Defendant Midland Funding, LLC's declared defenses in this matter, Plaintiffs respectfully request the Court to take notice of the *Jerman*, *Shady Grove*, and *LeBlanc* holdings and permit additional argument and/or briefing as may be necessary by the Court for such purpose.

Respectfully,

//s//

Phillip Robinson

cc: All Parties & Counsel by ECF